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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

13 CR 268 (JMF)

5 ALIMZHAN TOKHTAKHOUNOV, ET
6 AL.,

7 Defendants.
8 -----x

9 New York, N.Y.
10 March 12, 2014
11 3:08 p.m.

12 Before:

13 HON. JESSE M. FURMAN

14 District Judge

15 APPEARANCES

16 PREET BHARARA

17 United States Attorney for the
18 Southern District of New York

19 JOSHUA NAFTALIS

20 Assistant United States Attorney

21 RAYMOND GRANGER

22 Attorney for Defendant Ilya Rozenfeld

23 BRUCE WENGER

24 Attorney for Defendant Peter Skyllas

25 KRISTEN SANTILLO

Attorney for Defendants William Edler and Peter Feldman

PHYLLIS MALGIERI

Attorney for Defendant Joseph Mancuso

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(In open court; case called)

MR. NAFTALIS: Good afternoon, your Honor. Joshua Naftalis for the government. With me at counsel table is Robert Hanratty from the FBI. Thank you for allowing us to start a couple minutes late.

THE COURT: No problem. Good afternoon to both of you.

Gentlemen in the back would you please state your name for the record and also indicate whether your client is present and if so where.

I should note that two of the defendants, Mr. Edler and Mr. Feldman, were granted permission by my order yesterday not to be here today. Ms. Santillo was granted leave, with Mr. Feldman and Mr. Feldman's counsel's permission, to appear on his behalf, in addition to Mr. Edler's behalf.

So having said that, please state your name and let me know whether your client is or is not present.

MS. SANTILLO: I'm Kristen Santillo on behalf of Mr. Edler and Mr. Feldman.

MS. MALGIERI: Good afternoon, your Honor. Phyllis Malgieri from Fischetti & Malgieri on behalf of Joseph Mancuso, who is present behind me in the first row.

MR. WENGER: Good afternoon. Bruce Wenger on behalf of Peter Skyllas, who is sitting in the corner front row here.

MR. GRANGER: Good afternoon, your Honor. Raymond

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1 Granger on behalf of Ilya Rozenfeld, who also is present in the
2 first row behind me to my right.

3 THE COURT: Good afternoon to all of you.

4 We are here for the second pretrial conference in this
5 case. The number of defendants has been considerably weaned
6 from the initial appearance when there were 33 defendants
7 present. We are down to five who have not pleaded guilty or --
8 well, who have not pleaded guilty.

9 The motion deadline in this case was extended, but the
10 deadline was ultimately a date in January. Only one defendant
11 filed a motion, namely Mr. Rozenfeld. Addressed the bulk of
12 the relief that he sought in that motion in a memorandum
13 opinion and order that was filed on Monday, but I reserved
14 judgment on the one aspect of the motion, namely the request
15 for a Bill of Particulars with respect to Count Eighteen. So
16 why don't we just start with that.

17 I'm sympathetic to the request, at least in part,
18 because the indictment charges the defendant with a five-year
19 participating in a money laundering conspiracy that is alleged
20 to have lasted for at least five years and it doesn't specify
21 how many transactions were involved or give any details as to
22 which financial transactions were monetary instruments, or
23 funds, or the like the government alleges to have been
24 criminal. Now part of the reason I didn't feel I could rule on
25 it -- in the opinion I think I made this clear -- is I don't

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1 actually have a sense of what the universe of transactions here
2 is. If we're talking about somebody who engaged in thousands
3 of transactions and of those thousands the government alleges
4 only a handful are potentially criminal, in which case I think
5 there's a lot to be said for putting the defendant on notice of
6 what those transactions are so that he can prepare a defense
7 and isn't left in the dark as to which of the thousands of
8 transactions he engaged in the government's theory is were
9 illegal.

10 Similarly, although there's arguments in the papers
11 with respect to the reverse proffer that took place: Number
12 one, the government itself acknowledges that, quote unquote,
13 some of the transactions were explained to or detailed to the
14 defendant, which is to say even by the government's own
15 representations it does not -- that did not cover the universe
16 of the transactions that the government alleges to constitute
17 proof of money laundering.

18 Number two, I don't know how many transactions we're
19 talking about in that context either. In other words, of the
20 universe if the government has provided information as to
21 98 percent of the transactions that it alleges to have been
22 illegal, then perhaps there is no need for a bill of
23 particulars. But if it has selected, of the subset of the
24 transactions -- of the transactions that Mr. Rozenfeld engaged
25 in, there is a subset that I gather the government alleges were

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1 illegal; and of that, if the government presented information
2 to Mr. Rozenfeld of only a small set, then I think there is a
3 much stronger argument for bill of particulars.

4 Let me also say that to the extent that the request
5 also seeks a bill of particulars with respect to the specified
6 unlawful activity and illegal gambling business aspects of
7 Count Eighteen, I'm less persuaded that there's a need here. I
8 think the count does adequately put the defendant on notice
9 that the specified unlawful activity and illegal gambling
10 business relate to the alleged illegal gambling business in
11 which Mr. Druzhinsky was engaged. And I think for that reason
12 the question here is simply whether the defendant has
13 sufficient notice as to the transactions that the government
14 intends to rely on, not the specified unlawful activity
15 component of it. But I'm happy to hear argument on that point.

16 So having given you those preliminaries, why don't I
17 turn first to you Mr. Naftalis, if you can give me -- I guess
18 make whatever argument you want, but if you can answer those
19 questions that would be helpful.

20 MR. NAFTALIS: Yes, your Honor.

21 I think the defendant is ignoring that we've given
22 them a lot of evidence. I think it's hard for us to
23 communicate to you in a brief what happened at the reverse
24 proffer.

25 But just to set the backdrop. In terms of discovery,

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1 discovery is organized by account and defendant with respect to
2 bank accounts. So Mr. Rozenfeld is able to go into the
3 accounts that he knows about, that we told him about;
4 carsUSA.com and LeaseMaster. These were two companies that
5 were the money laundering vehicles. So it's not like he needs
6 to review all the bank accounts for all the defendants.

7 He also knows, as we've told him, that the primary --
8 among the primary transactions to look at -- and we gave him
9 examples -- are transactions of a company called Titan. It's a
10 different Titan than we've talked about with respect to most of
11 the defendants. This is a Titan in Latvia.

12 THE COURT: Not the plumbing company?

13 MR. NAFTALIS: Not the plumbing company.

14 This is just a straight money laundering vehicle in
15 Latvia. It's just a coincidence.

16 And the defendant knows this. So if he wants us to
17 list out every time you see the word "Titan" in the bank
18 statement, that seems to be something the defendant is equally
19 capable of doing.

20 With respect to transactions of Mr. Druzhinsky and all
21 of the companies, which Mr. Rozenfeld is aware of since their
22 businesses are at the same address, he knows what they're
23 called. Ocean Ave. Development. Ivana Holdings. These are
24 the things he knows the exact vehicles that the money was going
25 to. So it's usually Titan into one of his car companies, then

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1 over to Mr. Druzhinsky's shell accounts, which also -- most of
2 those are shell accounts. Some of them I guess in theory may
3 have had some legitimate business. And then all the people who
4 he knows about, we told him about: Mr. Azen, Mr. Trinchler,
5 HMS, ACDelco, which is also another fraudulent business. It a
6 has some legitimate business, but they are using car companies
7 to launder money.

8 We told him specifically these are the types of
9 companies you're dealing with. We told him that we know you're
10 structuring. So if you look at transactions that are like
11 \$9,800, you might want to take a look at those. If you look at
12 transactions that are like \$250,000, you might want to look at
13 those too. Because they are huge transactions for money
14 laundering. They're all the small ones trying to avoid
15 detection.

16 I think what the defendant wants us to do is four
17 months before trial to literally go through the bank statements
18 and send him a list of exhibits. We have narrowed it down. We
19 have produced discovery in a very organized way. So to say
20 that it's haphazard in some way -- I mean we can show your
21 Honor the CD. It's more organized than any discovery I've ever
22 seen. It's not Bates-stamped. Like you have to go through it.
23 It literally says like "Rozenfeld accounts" or by defendant.
24 You can just click in there. He knows the companies he worked
25 at. And he can look at the bank statements himself.

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1 I think there are about three million dollars-ish of
2 proceeds that were moving around. This is not some gargantuan
3 task. I think that the argument he is making is he doesn't
4 want to prepare for trial the way a normal defendant would be,
5 which is to review the evidence, which we did with him, and say
6 these are the people that are alleged to have laundered money
7 to and from and let's figure out if we have a legitimate basis
8 for them. We don't think there is a legitimate basis.

9 I think what he wants us to do is basically -- this is
10 like an interrogatory in civil litigation. Identify all
11 transactions you're going to use at trial. And have us list
12 them out for him. And then I guess at trial it would be like
13 well now let's talk about exactly what we know is going to
14 happen.

15 There is no great burden here. It's been almost a
16 year since we indicted the case. They've had the discovery for
17 a year. The proffer was months ago.

18 And his piece of this case is small. It's not like he
19 is laundering money for every single defendant in the case. He
20 is in this little sort of world with Mr. Druzhinsky. He knows
21 who his codefendants are. We told him specifically what we're
22 looking at. He knows this world.

23 We're not saying: Make sure you look at your
24 transaction with Bill Edler. These guys have nothing to do
25 with each other.

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1 I'll be interested to hear what the great burden is
2 when Mr. Rozenfeld stands up. Because his reply brief just
3 parroted back his same arguments which is things are
4 disorganized and it's really hard. The case that I recall from
5 when we got our brief is, you know -- it's what's necessary to
6 prepare, not what's nice to prepare. We're not supposed to
7 serve up the case on a silver platter, which is what he really
8 is asking for.

9 That's basically -- we can answer any questions, but
10 that's our basic view as to the bill of particulars.

11 THE COURT: In your view, are all the transactions
12 that the defendant or that those companies that you cited, for
13 example Titan in Latvia, there's a car company that you
14 referenced, are all of those part of the money laundering
15 scheme, or were there a mix of legitimate and illegitimate
16 transactions that involve those entities?

17 MR. NAFTALIS: There are a mix of legitimate and
18 illegitimate. In some cases, the entire transaction is money
19 laundering. In some cases they're inflating the price of
20 what -- it's a mix-up. It's a Mercedes. It was worth 40 but
21 let's wire 60 so that we can launder 20. So it's two types of
22 it.

23 But the universe that they're looking at are the
24 people who we've gotten through. Just to go back to the
25 reverse proffer. We sat there and defense counsel literally

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1 was writing down all the Bates numbers. Can I get the session
2 number of the calls? We gave him time to really sit there with
3 the documents and copy down the accounts we were looking at,
4 the Bates numbers of the transactions. We were pointing him to
5 transactions. We said to him: There is no legitimate basis
6 for this transaction. Look at the -- look at the call. The
7 call is something to the effect of: Don't send a round number.
8 So the next one isn't round. We said: Look, you guys are
9 following the instructions. They know exactly what we're
10 looking at.

11 It wasn't like we went in there and said your company
12 is fraudulent and you've done some transactions and you have
13 the bank account. We sat there with like the Chase Bank
14 account, or whatever it was, and said: Look at this number.
15 Now let's look at the wire. Here you are laundering money.
16 Now let's look at how you tried to do a better job the next
17 time. Here you are still laundering money. Here you are with
18 Titan. Here you are with Mr. Druzhinsky's shell companies.

19 THE COURT: By your own acknowledgment, that's a
20 subset of the transactions that you allege to be illegal.

21 I guess my question is -- I don't know if it's as
22 simple as buying a car. But let's say that there are a
23 thousand transactions involving a car. And your view is that
24 90 percent of those are legitimate but 10 percent were part of
25 the money laundering scheme. That would raise the concerns

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1 that I alluded to or mentioned earlier insofar as I think the
2 defendant would be entitled, particularly if there's a
3 voluminous number of transactions here, to have some sense --
4 to be put on notice of which transactions the government is
5 alleging were illegal so he can prepare his defense in
6 connection with those transactions, recognizing of course that
7 you did perhaps cherry-pick the strongest transactions for your
8 purposes at the reverse proffer and in that regard give him a
9 lot of information about what a trial would look like.

10 MR. NAFTALIS: What we told him, and we'll say again,
11 there are shell companies in Latvia and Cypress, Titan. And
12 then there's ones in Cypress, for example, Maple Brook. We
13 went through all of these. These companies have no business
14 other than to launder money. There are a smaller subset of
15 transactions which we may rely on, which could theoretically
16 have some legitimate purpose to them. But the ones that we are
17 focused on, and we focused on with them, are the ones where
18 it's with the shell companies.

19 Maple Brook, for example, is a Cypress shell company
20 controlled by Mr. Golubchik and Mr. Trinchler. It has no
21 purpose other than to move money from Russia or the Ukraine to
22 Cypress, to the U.S., and back, and back again.

23 So we told them that. I think we stood up in front of
24 your Honor at the first -- among the first conferences, we
25 tried to -- because we knew that there were a lot of names and

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1 a lot of companies and we said: The Trinchier --
2 Taiwanchik-Trinchier organization has a number of shell
3 companies, and we listed them all off. It's been in all the
4 discovery. It's in all the wire applications. Maple Brook,
5 North Side. These are companies that serve no purpose other
6 than to launder money.

7 When Mr. Rozenfeld was doing business with them,
8 that's money laundering. They're not doing anything other than
9 moving money. They mask it in this like car parts transactions
10 of these companies or cars, but there's nothing moving around
11 because these companies are literally gambling accounts.

12 If he wants me to highlight them for him, that seems
13 to me like I should be on the defense side. That's what a
14 lawyer does. They go through the discovery. And they've been
15 told twelve times: We think everything you do in these
16 companies is illegal. Okay. Go look for yourself. Click on
17 the CD we gave you and flip through these bank statements.

18 It's not like he works at GE. This is his car company
19 in Brooklyn, which does a little bit of business but it's, you
20 know, it's not like their bank statement for the month is
21 hundreds of thousands of pages. It's like a normal small
22 company bank statement. So flip through it and do your trial
23 prep. That's sort of our position.

24 THE COURT: Last question for you. I don't know if
25 you've thought about or discussed with counsel whether you

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1 would -- whether I should set a deadline for the disclosure of
2 exhibits that you intend to use at trial, but do you have a
3 view on that and when it should be? Because that is an
4 alternative here. Perhaps it just makes sense to give you a
5 deadline by which you need to list whatever exhibits you intend
6 to use and in that regard give some notice in advance of trial
7 of what transactions you're principally relying on.

8 MR. NAFTALIS: I guess this brings us at what I think
9 would be one of the conversations for today, which is
10 severance. Our expectation is that Mr. Rozenfeld will probably
11 be tried with Mr. Skyllas, and that probably Mr. Mancuso would
12 have to be tried separately, just to tee that up. I don't
13 think -- obviously Mr. Edler or Mr. Feldman are not going to be
14 going to trial.

15 So we're happy -- I don't know what your Honor's
16 practice is. I think that a week before for exhibits is fair.
17 I don't think that there's -- and just to tee it up, I think
18 that his trial will be about a week or two, just so you know.

19 We're happy to disclose them early, but I don't think
20 it's really realistic or fair for us to have to disclose them
21 months early.

22 THE COURT: It can't be many months since it's March
23 and the trial is scheduled for June 9.

24 MR. NAFTALIS: I don't know if your Honor anticipates,
25 make it up. 3500 exhibits are due the Friday before, or if

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1 they're due the week before. I don't know what your Honor's
2 preference is.

3 I don't think that this trial requires -- this isn't
4 the Madoff case where you have to turn over the documents a
5 month early because there's that much to go through. He's had
6 a year to go through them. We're happy to do it early. But I
7 don't think that a month's early deadline -- A., I can tell you
8 we're not ready to do it. We're happy to do whatever your
9 Honor wants. But we can ameliorate the issue by turning them
10 over a week earlier if you want. Anything more than that seems
11 to be unnecessary.

12 THE COURT: I do want to discuss the severance issue
13 and the schedule. But sticking first to the bill of
14 particulars motion, why don't I hear from you, Mr. Granger.

15 MR. GRANGER: Thank you, Judge.

16 First, Judge, I do want to thank you for the courtesy
17 you gave me during the motion practice. There was a medical
18 emergency in the family and I greatly appreciate that.

19 Judge, I think it's interesting that Mr. Naftalis now
20 refers to Mr. Rozenfeld being but a small part of the
21 indictment because you'll recall during the briefing the
22 government referred to the 83-page speaking indictment as to
23 indicate that somehow the length and detail in the indictment
24 was informative as to the charges against Mr. Rozenfeld.

25 THE COURT: You can put that aside. I think everybody

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1 acknowledges he's charged in Count Eighteen and the length of
2 the indictment and the number of other defendants charged has
3 no bearing on the issue here.

4 MR. GRANGER: As to the reverse proffer to which
5 Mr. Naftalis refers. Even as we speak today, the government
6 has not committed to using even any of those transactions.
7 You'll recall that in the briefing what the government said was
8 they showed us transactions that they would likely introduce at
9 trial. So we're not even sure that those transactions are
10 going to be used.

11 THE COURT: I got it. Here is my question for you.
12 As you know, in a criminal case there's only so much discovery
13 you're entitled to and it's not like a civil case where you go
14 to trial knowing exactly what the other side or having a pretty
15 good sense of the way the other side is going to present its
16 case. For better or for worse -- and certainly for most
17 defense lawyers in my experience, in their view for worse --
18 you're often in the dark of what the government's case is going
19 to look like until the eve of trial when you get the 3500
20 material and exhibits. Here you have not only a reverse
21 proffer at which the government presented detailed information
22 as to some transactions, admittedly a subset of the
23 transactions that it presumably thinks was illegal, but by
24 Mr. Naftalis' description today has provided you with fairly
25 well organized discovery that essentially gives you the

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1 universe of transactions at issue and identified most, if not
2 all, of the entities and individuals with whom transactions --
3 as to whom the transactions would be illegal, which is to say:
4 You have that material, you can go through it. Granted, you're
5 a little bit in the dark as to which transactions the
6 government will rely on, but you certainly are on notice of the
7 universe of potentially illegal transactions and can prepare
8 trial as well as most defendants can prepare trial. And then
9 if you get the exhibits a week or two weeks before trial,
10 you'll have a better sense and can zero in on those. Why is
11 that not consistent with what the law requires?

12 MR. GRANGER: Well, your Honor, I'll speak first to
13 what Mr. Naftalis has referred to as the "organized discovery."

14 Just to put this in context. With respect to
15 discovery that the government has grouped as related to my
16 client and his coconspirators named in Count Eighteen, we have
17 counted 853 account statements. Just with respect to that
18 subset, 853 account statements. I had my staff start to
19 manually count other bank statements we have. And we were not
20 able to finish as of today. The counting stopped at 2,769 bank
21 statements.

22 I don't know if I'm hearing Mr. Naftalis say that
23 those other 2700 or 3,000 statements are not going to be part
24 of the case. But until I'm told that for sure, we have to be
25 on top of all of that.

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1 Now with respect to, again, the organized nature of
2 the discovery. I don't know if Mr. Naftalis himself has dug
3 into it but I can tell you we've had tremendous problems. When
4 you go into individual files for individual accounts we'll
5 sometimes find that, in fact, it contains account statements
6 with different numbers than other account statements in that
7 file.

8 So it's not quite as organized as he describes. And I
9 say that in the sense that I'm not sure that he realizes that
10 when you get into the nitty-gritty discovery it's not as
11 organized as he may well in good faith believe.

12 You know, there's going to come a point, your Honor,
13 when we're at trial. The government is going to go in front of
14 this jury. And they're either going to list five transactions,
15 or ten, or fifty, or a hundred. And they are going to say
16 these are examples of illegal transactions that make Ilya
17 Rozenfeld guilty of money laundering.

18 My point is it is simply unfair for that to be the
19 first day that we find out what those transactions are.

20 We have a tremendous task. These some 3500 accounts
21 I've told you about are really just a minority of the documents
22 we have. We have other tremendous discovery to go through. We
23 have been working diligently for over a year. Presumably so
24 has the government. So we think it's not such a great burden
25 for the government to tell us which transactions unless the

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1 government itself has not decided which transactions it's going
2 to use, and that itself is significant in the context of this
3 discussion.

4 We're really just looking for the most basic
5 information: Which transactions are illegal.

6 And as far as the nature of Mr. Rozenfeld's account,
7 if your Honor would like, I have pulled out of those 3500
8 statements six statements that relate to accounts controlled by
9 or used by Mr. Rozenfeld. And I have also culled out one
10 statement related to -- I believe it's Delco Ukraine. I can
11 hand these up to your Honor, if you want to get a sense of just
12 a single month's statement in what they're describing as this
13 non-GE business. Get a sense of what we have to do. We have
14 go through all of these transactions and guess which ones they
15 are going to use.

16 Sure. We go to the reverse proffer. They give us an
17 idea. They say look at this, look at that.

18 THE COURT: Can I interrupt for a second. Because to
19 the extent that the universe of allegedly unlawful transactions
20 is maybe relatively large to begin with, if you get a bill of
21 particulars identifying what those are, you're still going to
22 be in the dark as to which transactions the government actually
23 proves at trial. It's not required to prove each and every one
24 of the transactions in order to convict the defendant. It's
25 presumably going to cherrypick and streamline its case and

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1 identify some of the transactions.

2 So giving you the universe, how does that help you
3 when you presumably already have a pretty good sense of what
4 the government's case is going to look like from the reverse
5 proffer?

6 MR. GRANGER: I'm not sure I understand your question
7 about the -- when you use the term "universe," what they've
8 identified as the universe of documents. I'm not sure.

9 Because what I'm looking for is the transactions.

10 THE COURT: No. No. I'm saying if I grant your
11 request for a bill of particulars and I say government you have
12 to provide a bill of particulars identifying any and all
13 financial transactions or monetary instruments and funds that
14 you allege to be part of the money laundering conspiracy.
15 Right. They give you a list of -- I don't know what the number
16 would be, if we're talking dozens, hundreds, or thousands of
17 transactions and monetary instruments, presumably many of which
18 relate to Titan and Maple Brook and the other entities that
19 Mr. Naftalis mentioned that are alleged to be simply shell
20 companies. That doesn't tell you what the government's case is
21 going to look like and you're still in the dark as to which of
22 those transactions they will prove up at trial. So, yes, it
23 gives you notice as to the dozens or hundreds or thousands of
24 transactions that they allege to be fraudulent, but it doesn't
25 actually help you that much to prepare for trial.

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1 So I guess given that it sounds like you have a pretty
2 good sense of what that universe is, even if you might have
3 some uncertainty at the edges, and I'm prepared to set a
4 deadline for the government to provide its exhibits to you,
5 perhaps more than a week in advance of trial, why doesn't that
6 suffice to prepare for trial?

7 MR. GRANGER: Well, Judge, as to your first question
8 if we get the information, if you order -- if you grant our
9 motion and give us the particulars, we certainly will have a
10 lot of work ahead of us. That's partly my point. There's a
11 tremendous amount of work to be done.

12 If the government were to say these are a hundred
13 transactions that we believe are illegal and we're left to --
14 we don't know which ones they are going to pick out of that,
15 that still -- it puts me in a much different position than
16 going through, even with respect to the files that have been
17 designated as relating to the coconspirators in Count Eighteen,
18 to leave me guessing as to 853 statements and going through and
19 guessing as to which transactions.

20 So I would still have a lot of work ahead of me, but
21 it would be a -- it would be a tremendous help to prepare for
22 trial to at least get me in the ballpark. Because I know it's
23 going to be among these hundred, maybe 50, maybe 20, maybe 5,
24 then I know it's not the tens of thousands of other
25 transactions that are out there.

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1 THE COURT: No one quarrels with the fact that it
2 would be helpful, but under the law it has to be more than
3 helpful. It has to be necessary.

4 So, Mr. Naftalis, can you enlighten me what these 853
5 alleged statements are? From your description I didn't quite
6 have the sense of it being so voluminous.

7 MR. NAFTALIS: I'm honestly not clear what he's
8 looking at, sitting here offhand.

9 (Pause)

10 MR. NAFTALIS: I'm talking to Agent Hanratty. I think
11 there are only five hundred counts in the whole case. If he
12 wants to look at all five hundred counts, that's fine. We've
13 already said to him we don't think they're all relevant.

14 I think I just gave a bill of particulars standing
15 here. That's all that would be required. This isn't a mail
16 fraud charge where I have to identify each mailing to prove up
17 money laundering. Money laundering -- we can show examples of
18 it and that's how you prove the case.

19 So he is aware of what transactions generally we may
20 prove. We've given him specific ones. We've told him how we
21 think they work, the parties involved, the specific accounts,
22 the dates, references to the wiretap, the people he's doing it
23 with, why we think they're illegal, which way the money goes,
24 which way it doesn't.

25 THE COURT: If you had to estimate the number of

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1 transactions that you believe were involved in the conspiracy,
2 what number are we talking about? Are we talking dozens,
3 hundreds, thousands?

4 MR. NAFTALIS: This is just -- don't hold us to it.

5 THE COURT: I understand.

6 MR. NAFTALIS: Like in the neighborhood of like a
7 hundred.

8 THE COURT: Of those how many would have some
9 connection to Titan, Maple Brook, and the other shell companies
10 that you've mentioned have no legitimate purpose.

11 MR. NAFTALIS: The majority, if not all of them.

12 I think that what we are jousting over is what's
13 called trial preparation. And what Mr. Granger wants us to do
14 is literally say September 2, 1999, \$50,000 illegal because
15 whatever. As opposed to just looking at the account statements
16 himself and talking to his client and saying why don't you tell
17 me why you did this transaction. That's what I thought lawyers
18 do. It's an adversarial process where I don't have to prepare
19 him for my case. And the issue is whether he -- he now is on
20 notice. We've given him so much notice. This is the only
21 defendant who claims he doesn't know what the case is about.
22 We've spoken to every other defendant. We've had them in.
23 They say: What's the proof? Help me look at the wiretaps.
24 Tell them listen to this wire. This one is relevant to you.
25 Look at these documents. Everyone else gets the case. Somehow

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1 Mr. Granger claims he doesn't understand what's going on. But
2 he has the time to count all the account statements for you and
3 say: Judge, I counted two thousand but I didn't actually look
4 at what any of them say.

5 They're on a CD. Run a search. They're on a CD.
6 Print them out. Compare them to the dates on the wire. That's
7 I think what you're supposed to do to prepare for trial so you
8 can cross-examine.

9 THE COURT: Are the accounts text searchable, the
10 statements?

11 MR. NAFTALIS: Yes.

12 THE COURT: I've heard enough.

13 Under Rule 7(f) of the Federal Rules of Criminal
14 Procedure I have discretion to order a bill of particulars
15 where the charges of the indictment are so general that they do
16 not advise the defendant of the specific acts of which he is
17 accused. United States v. Torres, 901 F.2d 205 at 234 (2d Cir.
18 1990). A motion for a bill of particulars should be granted
19 only if necessary to allow the defendant to "prepare for trial,
20 to prevent surprise, and to interpose a plea of double jeopardy
21 should he be prosecuted a second time for the same offense."
22 United States v. Panza, 750 F.2d 1141 at 1148 (2d Cir. 1984).
23 A bill of particulars should not be ordered to force the
24 government to particularize all of its evidence. United States
25 v. Cephas, 937 F.2d 816 at 823 (2d Cir. 1991). Nor if

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1 sufficient information has already been produced by the
2 government. See *United States v. Chen*, 378 F.3d 151 at 163 (2d
3 Cir. 2004). Ultimately the important question is "Whether the
4 information sought is necessary, not whether it is helpful."
5 *United States v. Facciolo*, 753 F.Supp. 449 at 451 (S.D.N.Y.
6 1990). Applying those standards here, I am denying the motion
7 for a bill of particulars. Although the motion did give me
8 pause for the reasons that I articulated, I think that the
9 indictment, combined with the discovery, combined with the
10 reverse proffer, combined with what Mr. Naftalis has stated in
11 open court today, that the defendant is on sufficient notice,
12 certainly can -- there is no issue raised with respect to his
13 ability to interpose a claim of double jeopardy in the future.
14 And I think that he has been provided sufficient notice of the
15 government's basic theory in what he has been charged
16 sufficient to prepare for trial. Granted, trial preparation is
17 hard, and it certainly sounds like there are challenges here,
18 but I don't think they are out of the ordinary. And it sounds
19 as if the defendant actually has been exposed, to a pretty
20 extraordinary degree, to the government's theory of the case
21 and what its case would actually look like at trial.

22 To the extent that the defendant seeks specific
23 information about how the government will present its case
24 against him, including details about overt acts, about specific
25 transactions, and so forth, that level of detail is beyond the

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1 proper scope of a bill of particulars. See, for example,
2 United States v. Malena, 2013 Westlaw 2455922 at page four
3 (S.D.N.Y June 5, 2013) citing cases for that proposition.

4 The bottomline is, based on what I've heard and based
5 on the representations made about the discovery, the defendant
6 has been given sufficient notice of the transactions that are
7 alleged to be a part of this, can prepare for trial
8 accordingly, can search those records and identify the
9 transactions at issue and in all likelihood has already been
10 advised of or, you know, let in on what the government's case
11 would look like at trial.

12 I am also going to require the government to provide a
13 list of its exhibits in advance of trial and will require that
14 that list be provided to Mr. Rozenfeld, and to the extent that
15 Mr. Skyllas is tried together with him, I'll set a deadline of
16 two weeks prior to trial, which is longer in advance than most
17 cases and should give even more of an ability to prepare to
18 meet whatever alleged transactions or whatever transactions the
19 government alleges to be criminal here.

20 I would also note that the crime charged here is a
21 conspiracy and in that regard the gravamen of the crime is an
22 illegal agreement. And in that regard, the government doesn't
23 have to prove any particular transaction. It has to prove an
24 agreement and some overt acts, or maybe not even here, in
25 connection with that agreement. Given that, I think that is an

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1 additional reason that it need not identify each and every
2 transaction.

3 So for those reasons the motion is denied. That
4 disposes of the rest of Mr. Rozenfeld's motion.

5 Before we discuss the question of severance, and
6 trial, and other deadlines in advance of trial, Mr. Naftalis,
7 why don't you just -- is there anything else that I should be
8 aware of?

9 Do you want to talk to me about the status of these
10 cases?

11 As I understand it, Mr. Edler and Mr. Feldman have
12 been offered, at least by the U.S. Attorney's Office, deferred
13 prosecution agreements and barring some unexpected development
14 that their cases should be disposed of in that manner in the
15 near future; is that correct?

16 MR. NAFTALIS: That's correct, your Honor.

17 THE COURT: Anything else that you want to say either
18 with respect to those two defendants or the other three?

19 MR. NAFTALIS: With respect to those two, I think
20 Mr. Feldman and Mr. Edler, I don't think we need to burden the
21 Court with that.

22 With respect to the other three --

23 THE COURT: Do you have any expectation of the timing
24 on their end?

25 MR. NAFTALIS: Usually takes -- you have to submit the

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1 request to pretrial. And then it takes them 45 days to say if
2 it's okay. I don't see any reason for pretrial to say no. But
3 there's sort of the -- once we say yes, there's the court
4 saying yes. I don't have any anticipation that we're going to
5 get a no.

6 THE COURT: When is that -- I think in Ms. Harris'
7 letter she indicated that that 45-day deadline, if you will, is
8 coming up relatively soon. Do you know --

9 MS. SANTILLO: It's March 28, your Honor.

10 THE COURT: As to both defendants or just Mr. Edler?

11 MS. SANTILLO: As to both defendants. And Mr. Edler
12 has an interview scheduled next week and we anticipate that one
13 will be scheduled shortly for Mr. Feldman.

14 THE COURT: Very good. So that should be resolved in
15 the near future, it sounds like.

16 Very good. As to the other three, anything?

17 MR. NAFTALIS: As to the other three, just I'll -- we
18 agree that severance with respect to -- Mr. Mancuso should be
19 severed from Mr. Skyllas and Mr. Rozenfeld. I think that
20 Mr. Mancuso's trial is like a week. The Rozenfeld/Skyllas one
21 is probably, I think to be safer, it's a week to two weeks.

22 THE COURT: Talk to me about why those two should be
23 tried together given that they're -- what the connection is
24 between the charges against those two since they're charged in
25 separate counts as well.

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1 MR. NAFTALIS: In retrospect, your Honor, maybe we
2 should just -- I think severance as to all three of them. The
3 proof overlaps more between Mr. Skyllas and Mr. Rozenfeld. I
4 think probably all defendants would be happier being severed
5 anyway.

6 THE COURT: I don't think that's the standard.

7 MR. NAFTALIS: The proof between them -- I mean
8 they're both in the money laundering basket, which is why I'm
9 thinking about them that way. But the proof is really --
10 Mr. Skyllas is in the HMS money laundering world with
11 Mr. Nahmad and Illya Trinchler; whereas Mr. Rozenfeld is more on
12 the Mr. Druzhinsky, Mr. Golubchik world. They touch. But I
13 think -- I think if they're -- they should be severed too. I
14 think it's probably -- it would get a little confusing for the
15 jury to hear all about Druzhinsky; whereas Mr. Skyllas has
16 nothing to do with him, really, and vice versa. Noah Siegel
17 has nothing to do with Mr. Rozenfeld. These worlds all overlap
18 but the proof wouldn't be -- wouldn't overlap with respect to
19 the money laundering really. It would be in the nature of
20 background as to how these conspiracies work.

21 THE COURT: Counsel, hear thoughts on the question of
22 severance?

23 MR. GRANGER: Judge, I appreciate Mr. Naftalis'
24 statement. I think that is appropriate. I think that there's
25 really very -- I'm not going to say very little. No connection

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1 really between my client, Mr. Skyllas, or the other defendant.
2 I concur in Mr. Naftalis' analysis.

3 MR. WENGER: Your Honor, I too. I don't think there's
4 any relationship with Mr. Rozenfeld and Mr. Skyllas and with
5 Mr. Mancuso. And I think obviously severance is warranted
6 here.

7 MS. MALGIERI: With respect to Mr. Mancuso, your
8 Honor, we believe that he has no connection either. And we are
9 prepared to go forward with trial if he is alone.

10 THE COURT: Anyone have any views on who should go
11 first? If I were to sever all three defendants?

12 MS. MALGIERI: We have no objection to going first,
13 your Honor, Joseph Mancuso. We're in the process of discussing
14 a disposition with Mr. Fischetti and Mr. Naftalis. But if
15 we're unsuccessful in obtaining what we're asking for, we're
16 prepared to go to trial first.

17 THE COURT: Mr. Naftalis, do you have a view on the
18 order of things?

19 MR. NAFTALIS: I don't think the order necessarily
20 matters. I had always thought about Mr. Rozenfeld going first.
21 But there's really no magic behind it other than I think it's a
22 longer trial.

23 THE COURT: Would it still be one to two weeks even if
24 his case were tried separately from Mr. Skyllas?

25 MR. NAFTALIS: I think so. I think it's one of

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1 those -- it's like a five-day, six-day trial, not a ten-day
2 trial.

3 THE COURT: How long would you expect the Skyllas
4 trial to be?

5 MR. NAFTALIS: I think his is like a week. His is
6 just less -- Mr. Rozenfeld is just more -- it's not that it's
7 complicated but you have to explain the moving around a little
8 more of the money; whereas Mr. Skyllas, it's a little easier to
9 present. I don't think that the Mancuso one is terribly
10 complicated to any of us. So that one I think we would all
11 agree we could get done in a week.

12 THE COURT: Do you agree?

13 MS. MALGIERI: Yes.

14 THE COURT: All right. Anything else with respect to
15 trials, trial dates, etc.?

16 MR. NAFTALIS: Our only preference would be if your
17 going to -- I guess right now we sort of dominated two months
18 of your Honor's schedule.

19 THE COURT: You have.

20 MR. NAFTALIS: If you're going to release some of the
21 dates, leave a couple of weeks between them just so that, as we
22 roll between the two, if they all go, if one of them goes too
23 long, we have some cushion, and we also have a little bit of
24 time to prepare for the next one. We're pretty indifferent as
25 to the timing.

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1 I think if Your Honor thinks one is going to go, I
2 think that Mr. Rozenfeld is the most likely to go, compared to
3 Mr. -- just based on the bill of particulars. They seem
4 prepared to go to trial, or more than prepared to go to trial.
5 So I think that one will go. So why not just do that one
6 first.

7 THE COURT: Anyone else before I begin to give you
8 some specifics?

9 All right. Let me tell you the following. I'm going
10 to start with the Rozenfeld trial. And although I had set
11 trial down to begin on June 9, I'm going to push it back one
12 week to June 16 in part because I will be out some of the week
13 of the 9th so it doesn't really pay to start that week. So
14 Rozenfeld trial will start June 16 and continue I guess until
15 it ends, presumably sometime the following week.

16 The next trial will be the Mancuso trial -- actually
17 check that. I'm going to go with the Skyllas trial next. And
18 we will begin on July 14 -- actually check that. We will begin
19 on July 15, which is a Tuesday.

20 The last trial will be the Mancuso trial which will
21 begin on August 4.

22 My general practice is to issue an order about two
23 months prior to trial setting deadlines for the filing of
24 proposed voir dire, requests to charge, and motions in limine
25 and the like. Is there any reason not to just adhere to that

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1 practice here, which is to say not do that today but simply
2 issue an order two months before each of these trials?

3 MR. NAFTALIS: That's fine, your Honor.

4 MR. GRANGER: That's fine, your Honor.

5 MR. WENGER: That would be fine, your Honor.

6 MS. MALGIERI: That's fine, your Honor.

7 THE COURT: And I've already said that exhibits should
8 be provided two weeks prior to trial at least as to
9 Mr. Rozenfeld.

10 Is there a similar need in the other trials?

11 MR. WENGER: We would love for that to happen, your
12 Honor, in our case also, your Honor.

13 THE COURT: I'm not sure that's the standard either.
14 Mr. Naftalis do you have a view on the question as to
15 Mr. Skyllas and Mr. Mancuso?

16 MR. NAFTALIS: I don't think it's necessary for either
17 of them, your Honor.

18 THE COURT: Why?

19 MR. NAFTALIS: Other than they'd like it, that doesn't
20 mean they're entitled to it.

21 THE COURT: Understood. I just said that myself.

22 MR. NAFTALIS: Why don't we prepare -- we'll
23 potentially just be rolling off the Rozenfeld trial. I also
24 think it's a more limited -- the Skyllas issues are not diving
25 through bank statements. It's more in the nature obviously

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1 of -- it's just not the same kind of proof where he needs some
2 advanced look to say that he wasn't ready. I mean I didn't
3 hear anything to exactly what your Honor said other than he
4 likes the idea because Mr. Rozenfeld got it. But that's not
5 the standard, as your Honor knows.

6 THE COURT: I'm going to give Mr. Rozenfeld two weeks;
7 that is to say, the government needs to disclose its exhibits
8 or at least a list of its exhibits two weeks prior to his
9 trial. And I will set a deadline for a similar list in the
10 other cases of a week prior to trial.

11 And as to other deadlines, I will set those by order
12 approximately two months before each of these trials. And in
13 that order, I will also set a time for a final pretrial
14 conference. But you should assume that that would be about a
15 week before the trial is set to begin.

16 Anything else that we need to deal with today?

17 MR. GRANGER: If I may, your Honor, I just want to
18 mention to the Court that Mr. Rozenfeld has indicated to me he
19 may retain other counsel for trial. I told him that, in that
20 case it was incumbent upon me to say something to you because I
21 expected that you would want to instruct him that the trial
22 date is a firm date regardless of who he chooses as trial
23 counsel.

24 THE COURT: I was about to do that and, in fact, I
25 believe I even did that at the first appearance but I will do

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1 that in a moment.

2 Anything else from you, Mr. Naftalis?

3 MR. NAFTALIS: Your Honor, we'd move to exclude time
4 I'm not exactly sure -- actually I guess you've excluded time
5 through June --

6 THE COURT: -- 9th.

7 MR. NAFTALIS: I guess with respect to the Skyllas and
8 Mancuso ones; with respect to Mr. Skyllas through the 15th of
9 July and Mancuso through the 4th of August.

10 THE COURT: Any objection, counsel?

11 MR. GRANGER: No, your Honor.

12 MR. WENGER: No, your Honor.

13 MS. MALGIERI: No, your Honor.

14 THE COURT: I will exclude time as to -- generally
15 speaking, there's a single clock in each case. But to the
16 extent that this is a permissible thing to do, I exclude time
17 as to Mr. Rozenfeld through June 16. I exclude time as to
18 Mr. Skyllas through July 15. And I exclude time as to
19 Mr. Mancuso through August 4. I find that the ends of justice
20 served by excluding that time outweigh the interests of the
21 defendants and the public in a speedy trial, to allow the
22 parties to discuss potential dispositions of each case without
23 a trial, and in the event that that does not happen, to allow
24 both sides to continue to review discovery and prepare for
25 trial and potentially to ensure a smooth continuity of counsel.

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1 Let me repeat what I said at the initial appearance in
2 this case. I have obviously changed the trial dates slightly
3 in part because we're not going to have one trial. We will
4 have three separate trials. But I want everybody here, both
5 counsel and the defendants, to understand that the trial dates
6 that I just set are firm trial dates and they are not going to
7 change barring some pretty extraordinary event or unforeseen
8 circumstances, which is to say that Mr. Rozenfeld should
9 understand and assume that he is going to trial on June 16.
10 Mr. Skyllas should understand that he is going to trial on
11 July 15. And Mr. Mancuso should understand that he is going to
12 trial on August 4.

13 In connection with that and in reference to what
14 Mr. Granger said about Mr. Rozenfeld's potential desire to
15 either substitute or add new counsel, let me tell you that the
16 closer we get to that trial date the less likely it would be
17 that I would grant any request to substitute counsel because
18 that would inevitably have an effect on the trial date. It
19 requires a lot of time to prepare for trial and some of the
20 argument we had today concerned how much time it might take to
21 prepare for trial in the Rozenfeld case in particular. And no
22 attorney is going to come on a case and be prepared to try it
23 in a manner of weeks. So if you desire to change counsel or
24 retain new counsel or if you become eligible for appointed
25 counsel, it is absolutely essential that you raise that kind of

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1 thing with me sooner rather than later so that any new counsel
2 can have adequate time to prepare. If it turns out that a new
3 lawyer would not have adequate time to prepare and it would, if
4 I were to allow it, require the trial to be moved, it's not
5 going to happen. So you should understand that those trial
6 dates are firm and that they are not going to change.

7 Mr. Rozenfeld, do you understand that?

8 DEFENDANT ROSENFELD: Yes, sir.

9 THE COURT: Mr. Skyllas do you understand that.

10 DEFENDANT SKYLLAS: Yes, your Honor.

11 THE COURT: And Mr. Mancuso, do you understand that?

12 DEFENDANT MANCUSO: Yes, your Honor.

13 THE COURT: Anything further from counsel?

14 MR. NAFTALIS: No, your Honor. Thank you.

15 THE COURT: Mr. Granger?

16 MR. GRANGER: No, your Honor.

17 THE COURT: Mr. Wenger?

18 MR. WENGER: No, your Honor.

19 THE COURT: Ms. Malgieri?

20 MS. MALGIERI: Nothing further, your Honor.

21 THE COURT: And Ms. Santillo?

22 MS. SANTILLO: No, your Honor. Thank you.

23 THE COURT: Thank you for being here. I know you were
24 a bit of a spectator, but I appreciate since you are still
25 technically in the case that you were here. Thank everybody

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1 for their patience. We are adjourned.

2 (Adjourned)

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